

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application for Ex Parte Approval of an Interim
Alternative Plan for Protection of the Public
Pursuant to General Order 120-C, Sections 3(E)
and 6.

Application 03-05-039
(Filed May 30, 2003)

Petition to Adopt, Amend, or Repeal a Regulation
Pursuant to Public Utilities Code Section 1708.5.

Petition 03-05-040
(Filed May 30, 2003)

SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER

Following a Prehearing Conference on August 6, 2003, and pursuant to Article 2.5 of the Rules of Practice and Procedure (Rules), this Scoping Memo and Ruling discusses the category, need for hearing, scope and schedule of the petition to amend General Order (GO) 120-C.

1. Summary

Petitioners filed these two proceedings on May 30, 2003. Application (A.) 03-05-039 sought approval of an Interim Plan interpreting GO 120-C to enable hot air balloon providers to obtain required insurance without sacrifice to the public safety. Petition (P.) 03-05-040 seeks a permanent amendment to GO 120-C following hearings and briefings by the parties and interested persons.

The Commission in July 2003 adopted Interim Decision (D.) 03-07-036, authorizing some flexibility for balloon operators in meeting the requirements of GO 120-C while the Commission considers possible amendment of the General Order. At the Prehearing Conference on August 6, Petitioners and Commission

staff agreed that this phase of the proceeding would deal primarily with the petition for amendment of GO 120-C.

2. Scope of the Proceeding

The issues to be considered in this proceeding are:

- (1) Should GO 120-C insurance minimums for commercial balloon operators be modified?
- (2) What effect will a modification of insurance minimums have on other commercial air operators (helicopters, fixed-wing aircraft) covered by GO 120-C?
- (3) Is there cost data available from the industry, the Federal Aviation Administration or the National Transportation Safety Board relevant to balloon insurance minimums and petitioners' request for amendment of GO 120-C?
- (4) How many commercial balloon accidents have there been in California during the past 10 years, and what liability costs were associated with each accident?
- (5) Should self-insurance requirements and surety requirements of GO 120-C be modified?
- (6) Should the Commission be involved in balloon insurance and, if not, what government agency should be overseeing balloon insurance?
- (7) What is the position of the California Department of Insurance on the type and adequacy of insurance for commercial balloon operators?
- (8) What insurance is now available for California balloon operators?
- (9) How do California's requirements for passenger balloon insurance compare with the requirements of other states, including Arizona?
- (10) Should GO 120-C requirements for filing proof of commercial balloon insurance be modified?

3. Schedule

A hearing is necessary. Petitioners and Commission staff have agreed on the following schedule:

September 19, 2003	Petitioners file and serve written testimony and exhibits setting forth in detail their proposed amendment and justification for amendment of GO 120-C.
October 10, 2003	Consumer Protection and Safety Division and any other interested entity or person file and serve a written response (including testimony and exhibits, if any) to petitioners' testimony and exhibits.
October 31, 2003	Petitioners file and serve written rebuttal testimony and exhibits.
November 18-21, 2003	Public hearing will begin at 10 a.m. in the Commission Hearing Room, 505 Van Ness Avenue, San Francisco.
December 19, 2003	Briefs filed and served.
February 2004	Draft Decision circulated.

It is my goal to have a decision in place by April 2004 in time for the start of the commercial balloon summer season.

4. Category of Proceeding and Need for Hearing

The Commission categorized A.03-05-039 as ratesetting. Since this phase of the proceeding will deal primarily with P.03-05-040 and the proposed rulemaking involving GO 120-C, this ruling changes the categorization from this point forward to quasi-legislative. In a quasi-legislative proceeding, ex parte communications are allowed without restriction or reporting requirement. (Rule 7(d).) This ruling, only as to category, may be appealed under the procedures in Rule 6.4.

The Commission preliminarily determined that this proceeding would not require a formal hearing. In D.03-07-036, the Commission determined that a public hearing is necessary for this phase of the proceeding. (Ordering Paragraph 9.)

I designate Administrative Law Judge Walker as the principal hearing officer for the hearing in this matter.

IT IS RULED that:

1. The scope of the proceeding is as set forth herein.
2. The schedule for this proceeding is as set forth herein.
3. This proceeding is quasi-legislative, and a public hearing is necessary.
4. Ex parte communications are permitted.

Dated August 14, 2003, at San Francisco, California.

/s/ SUSAN P. KENNEDY

Susan P. Kennedy
Assigned Commissioner

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Scoping Memo and Ruling of Assigned Commissioner on all parties of record in this proceeding or their attorneys of record.

Dated August 14, 2003, at San Francisco, California.

/s/ KE HUANG

Ke Huang

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.